IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

WP(C).No. 26976 of 2007(J)

PETITIONER:

P.A.SAINUDHEEN, AGED 44 YEARS
S/O.ALI HAJI, PANAYAPPALLY HOUSE
PALLILAMKARA, KALAMASSERY

BY ADV. SRI.SHAHUL HAMEED MOOPPAN
SRI.K.M.VARGHESE

RESPONDENTS:

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1. THE STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
LABOUR REPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM

2. THE DISTRICT EXECUTIVE OFFICER
KERALA MOTOR TRANSPORT WORKERS SWELFARE FUND BOARD
ERNAKULAM

3. DEPUTY TAHSILDAR (R.R.)
KANAYANNUR TALUK,
ERNAKULAM, KOCHI-682011

BY ADV. SHRI.I.V.PRAMOD, GOVERNMENT PLEADER
ADV. SHRI.P.RAMAKRISHNAN, SC, KMTWWFB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC,J.

W.P (C) No. 26976 of 2007

Dated this the 11th day of September, 2007

J U D G M E N T

The Revenue Recovery Proceedings evidenced by Exhibits P7 and P8 for recovery of the dues under Kerala Motor Workers Welfare Fund Act was initiated against the petitioner and this writ petition has been filed challenging the same. The provisional determination for the period 1994-2003 was confirmed against the petitioner by Exhibit-P1 and against that the petitioner filed Exhibit-P2 appeal. Exhibit-P2 appeal was decided against him and even thereafter amount remained unpaid. It is to realise that amount, revenue recovery was initiated under the impugned proceedings.

2. The main ground urged is that he has not given an opportunity of hearing before Exhibit P9 appellate order was passed. However, Exhibit - P9 shows that notice was issued to the appellant fixing the hearing date on 3.7.2004 when he was absent. Thereafter, he was given another chance on 16.7.2004 when also he was absent. In Exhibit P3, the authorities were directed by this court to pass orders and as time was running short, they had to dispose of the matter in terms thereof.

Therefore, I do not find anything illegal in the appellate order since the petitioner was absent on two occasions. However, the fact remains that the petitioner did not have an opportunity to make representation in the matter. Therefore, I am inclined to direct the respondent giving him a fresh opportunity. Accordingly, I dispose of this writ petition quashing Exhibit -P9 and directing the 1st respondent to consider Exhibit-P2 appeal with notice and opportunity to the petitioner. Orders on Exhibit-P2 shall be passed within a period of two moths from the date of receipt of a copy of this judgment. This shall be conditional and the petitioner shall remit an amount of Rs. 1 lakh, within a period of two weeks on receipt of this judgment in which case, further proceedings pursuant to Exhibit-P7 and P8 will be kept in abeyance until orders are passed by the 1st respondent on Exhibit-P2 appeal.

(ANTONY DOMINIC, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007